THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO.13353 OF 2007

Dated: 26.06.2007

Between:

J. Hemalatha

..Petitioner

And

1. The District Collector & Chairman,
   DSC-1998, Warangal District and others.

.. Respondents.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.13353 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioner seeking to call for records pertaining to the order of the tribunal dated 4.5.2006 in O.A.No.10883 of 2002 and the proceedings of the 2nd respondent dated 11.6.2001 and to quash the same and consequently, to declare that the petitioner is entitled for appointment as a PET w.e.f. the date on which the 1998 DSC candidates were appointed with all consequential benefits by holding that the action of the respondents in rejecting the claim of the petitioner for appointment to the post of PET in DSC 1998 in the existing vacancies available then as illegal and arbitrary.

The petitioner herein is the applicant before the Tribunal. She filed the above O.A. seeking to declare that the applicant is entitled for appointment as P.E.T (Physical Education Teacher) with effect from the date on which 1998 DSC candidates were appointed with all benefits by holding that the action of the respondents in rejecting her claim for appointment in the existing vacancies, as illegal.

The tribunal having observed that the petitioner did not come up under the zone of consideration for appointment to the post of Physical Education Teacher, dismissed the O.A. Having aggrieved by the same, the present W.P. is filed.

Heard the learned Counsel for the petitioner as well as the learned Government Pleader for Services I.

It is the case of the applicant that the respondent did not notify

all the existing vacancies as on April, 1998 and apart from that, as per G.O.Ms.No.49, dated 26.2.1998, one post of PET must be necessary to Secondary School though minimum strength is not there and therefore, the contention of the respondents that due to uneconomic strength, though vacancies are available, they are not notified is contrary to the rules. According to her, there were 7 vacancies of PETS and 5 more vacancies under the management of Z.P. Warangal. But, the respondents did not calculate the same, but kept the vacancies unfilled till DSC 2001. If the respondents notified all the vacancies, she would have been appointed in those vacancies as she is the next meritorious candidate and therefore, the order of the tribunal is not justified and the same is liable to be set aside.

On the other hand, the learned Government Pleader contends that 5 vacant posts mentioned by the applicant were not meant for direct recruitment, but for absorption of PETs temporarily working against SGT posts and one clear vacancy of PET caused due to retirement at Government High School, Warangal has been notified in DSC 1998 and the same was filled in by one of the 5 selected candidates vide proceedings dated 26.10.1998.

Before going to deal with the present case on hand, it is pertinent to note that on the earlier occasion, the petitioner filed O.A.No.7797 of 1999 and the same was disposed of directing the respondents to work out the vacancies that had arisen upto 30.9.1998 in furtherance of the notification issued on 15.3.1998 on account of non-joining of certain selected candidates and also the vacancies that have arisen till the end of September, 1998 on account of promotions, retirements, newly sanctioned posts etc and consider the cases of the applicants in the vacancies relevant for them with reference to their merit/rankings. Again she filed the present O.A. challenging the

proceedings issued by the 2nd respondent pursuant to the judgment of the Tribunal in the earlier O.A.

In the impugned proceedings therein, viz., dated 11.6.2001 the respondents-officials clearly stated that the petitioner has not come up under the zone of consideration and therefore, her case cannot be considered.

It is an undisputed fact that notified vacancies for DSC 1998 are 5 and all of them were filled up. According to the requirement, the respondents-officials notified the vacancies available as on 30.9.1998 in DSC 1998.

It is not the case of the petitioner that the respondents-officials failed to fill up all the notified vacancies and the proceedings dated 11.6.2001 go to show that the petitioner did not come under zone of consideration. Apart from that, the petitioner was appointed in DSC 2001. In these circumstances, the petitioner-applicant does not have any claim as a matter of right, in order to get notional seniority from DSC 1998 by raising the issue which was already adjudicated on the earlier occasion by the Tribunal in another O.A.No.7797/1999.

Under the above circumstances, we have no hesitation to hold that the order of the tribunal is justified and it needs no interference.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 26.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.13353 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 26.06.2007